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EXAMINER	
AHMED, SALMAN	
ART UNIT	**PAPER NUMBER**
2616	

DATE MAILED: 11/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/937,949	SEBIRE ET AL.	
	Examiner	Art Unit	
	Salman Ahmed	2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *10/18/2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *43 and 45-84* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *43 and 45-84* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *10/2/2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claims 43, 45-84 are pending.

Claims 43, 45-84 are rejected.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 43 and 45-84 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dent *(US* Patent No. 6,084,865) in view of Tran et al. (US PAT 5517504), hereinafter referred to as Tran.

In regards to claim 43 Dent teaches a telecommunications system comprising a first station adapted to communicate with a second station over a wireless channel (see col. 1, lines 9-16), data being carried over the wireless channel in superframes (see Fig. 2), each superframe comprising a plurality of frames (see col. 5, lines 9-49) and each frame comprising a plurality of timeslots (see col. 12, lines 14-25); the system having: a first mode of operation in which a full rate data channel for circuit switched communications (see Fig. 11, col. 19, lines 58-66, PSTN means circuit switched communications) is defined by an allocation to that data channel (see col. 2, lines 8-27) of corresponding time slots in each frame (see col. 18, lines 44-60); a second mode of operation in which two half rate data channels for circuit switched, communications are defined by an allocation to each of said two data channels (see col. 2, lines 8-27) of an equal number of corresponding time slots of frames in each superframe (see col. 1, lines 53-61, col. 18, lines 44-60); a third mode of operation in which four quarter rate data channels for circuit switched communications are defined by the allocation to each of those data channels (see col. 2, lines 8-27) of an equal number of corresponding time slots of frames in each superframe (see col. 6, lines 38-65, "when factor is 4, frame-length/slot is 32 means quarter rate 1/4" and col. 15, line 53-to-col. 16, line 7).

Dent does not explicitly teach a first mode of operation and a second mode of operation (cited in the claim as fourth mode and fifth mode respectively) is being done in a packet switched communication as well.

Tran in the same field of endeavor teaches (column 1 lines 35-45) subscriber units may attempt to increase efficiency for a wireless system that is primarily intended for circuit-switched traffic by using excess system capacity for packet-switched data services via similar subscriber unit equipment.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dent's system/method by incorporating the concept of using excess system capacity in a TDMA system for packet-switched data services as taught by Tran. The motivation is that (as suggested by Tran, column 1 lines 35-45) Packet data provides more network robustness due to path independence and the routers' ability to select alternative paths in the event of network node failure. Packet switching, therefore, allows for more efficient use of the network lines. Packet technology offers the option of billing the end user based on amount of data transmitted instead of connection time. If the end user's application has been designed to make efficient use of the air link, then the number of packets transmitted will be minimal. If each individual user's traffic is held to a minimum, then the service provider has effectively increased network capacity.

Regarding to claim 78. Dent teaches a communications system comprising a first station adapted to communicate with a second station over a wireless channel (see col. 1, lines 9-16), data being carried over the wireless channel in superframes, each superframe comprising a plurality of frames (see col. 5, lines 9-49) and each frame comprising a plurality of timeslots (see col. 12, lines 14-25); the system having:

a first mode of operation in which a full rate data channel for switched communications is defined by the allocation to that data channel (see col. 2, lines 8-27) of corresponding time slots in each frame (see col. 18, lines 44-60); a second mode of operation in which two half rate data channels for switched communications are defined by the allocation to each of those data channels (see col. 2, lines 8-27) of an equal number of corresponding time slots of frames in each superframe (see col. 1, lines 53-61, col. 18, lines 44-60).

Dent does not explicitly teach a first mode of operation and a second mode of operation is being done in a packet switched communication.

Tran in the same field of endeavor teaches (column 1 lines 35-45) subscriber units may attempt to increase efficiency for a wireless TDMA system that is primarily intended for circuit-switched traffic by using excess system capacity for packet-switched data services via similar subscriber unit equipment.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dent's system/method by incorporating the concept of using excess system capacity in a TDMA system for packet-switched data services as taught by Tran. The motivation is that (as suggested by Tran, column 1 lines 35-45) Packet data provides more network robustness due to path independence and the routers' ability to select alternative paths in the event of network node failure. Packet switching, therefore, allows for more efficient use of the network lines. Packet technology offers the option of billing the end user based on amount of data transmitted instead of connection time. If the end user's application has been

designed to make efficient use of the air link, then the number of packets transmitted will be minimal. If each individual user's traffic is held to a minimum, then the service provider has effectively increased network capacity.

Regarding to claim 63: Dent teaches a communication system comprising a first station adapted to communicate with a second station over a wireless channel (see col. 1, lines 9-16), data being carried over the wireless channel in superframes (see Fig. 2), each superframe comprising a plurality of frames (see col. 5, lines 9-49) and each frame comprising a plurality of timeslots (see col. 12, lines 14-25); the system having a mode of operation in which a data channel for circuit switched communications (see Fig. 11, col. 19, lines 58-66, PSTN means circuit switched communications) is defined by the allocation to that channel of corresponding time slots (see col. 2, lines 8-27) of some of the frames of each superframe,

Dent does not explicitly teach a data channel for packet switched communications is defined by the allocation to that channel of corresponding time slots of some of the frames of each superframe.

Tran in the same field of endeavor teaches (column 1 lines 35-45) subscriber units may attempt to increase efficiency for a wireless TDMA system that is primarily intended for circuit-switched traffic by using excess system capacity for packet-switched data services via similar subscriber unit equipment.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dent's system/method by incorporating the concept of using excess system capacity in a TDMA system for packet-switched data services as

taught by Tran. The motivation is that (as suggested by Tran, column 1 lines 35-45) Packet data provides more network robustness due to path independence and the routers' ability to select alternative paths in the event of network node failure. Packet switching, therefore, allows for more efficient use of the network lines. Packet technology offers the option of billing the end user based on amount of data transmitted instead of connection time. If the end user's application has been designed to make efficient use of the air link, then the number of packets transmitted will be minimal. If each individual user's traffic is held to a minimum, then the service provider has effectively increased network capacity.

Regarding to claim 45. Dent teaches a communication system as claimed in claim 43, wherein equal numbers of timeslots in each frame are allocated to the data channel (see col. 2,lines 8-27) for circuit switched communications and the data channel for packet switched communications (see col. 1, lines 53-61).

Regarding to claim 46. Dent teaches a communication system as claimed in claim 43, wherein half the number of slots are allocated to the data channel for packet: switched communications are allocated to the data channel for circuit switched communications (see col. 1, lines 53-61, col. 18, lines 44-60).

Regarding to claim 47. Dent teaches a communication system as claimed in claim 43, wherein a quarter of the number of slots are allocated to the data channel (see col. 2, lines 8-27) for packet switched communications are allocated to the data channel for circuit switched communications (see col. 6, lines 38-65, "when factor is 4, frame-length/slot is 32 means quarter rate 4" and col. 15, line 53-to-col. 16, line 7).

Regarding to claim 48. Dent teaches a communication system as claimed in claim 43, wherein the data channel for circuit switched communications is a half rate data channel (see col. 1, lines 53-61, col. 18, lines 44-60).

Regarding to claim 49. Dent teaches a communication system as claimed in claim 43, wherein the data channel for circuit switched communications is a quarter rate data channel (see col. 6, lines 38-65, "when factor is 4, frame-length/slot is 32 means quarter rate '/. " and col. 15, line 53-to-col. 16, line 7).

Regarding to claim 50. Dent teaches a communication system as claimed in claim 43, wherein the data charnel for packet switched communications (see Fig. 9, item "161 "means for packet switched communication) is a half rate data channel (see col. 1, lines 53-61, col. 18, lines 44-60).

Regarding to claim 51. Dent teaches a communication system as claimed in claim 43, wherein control data for control of the data channel for packet switched communications is carried by the data channel for circuit switched communications (see col.9, lines 1-16, and col. 19, lines 58-66).

Regarding to claim 52. Dent teaches a communication system as claimed in claim 51, wherein the control data is for control of transmission power and/or handover of the channel, link adaptation (see col. 17, lines 3-16).

Regarding to claim 53. Dent teaches a communication system as claimed in claim 51, wherein the control data comprises a fast associated control channel and/or a slow associated control channel (see col. 5, lines 10-49).

Regarding to claim 54. Dent teaches a communication system as claimed in claim 43, wherein the data channel for circuit switched communications is a conversational channel (see col. 5, lines 10-49, col. 14, lines 18-29, and col. 18, line 18-34).

Regarding to claim 55. Dent teaches a communication system as claimed in claim 43, wherein the data channel for circuit switched communications is a background channel (see col. 8, line 40-to-col. 9, line 16, and col. 12, lines 26-54).

Regarding to claim 56. Dent teaches a communication system as claimed in claim 43, wherein the data channel for packet switched communications is allocated time slots during periods (see col. 2, lines 8-27) when the data channel for circuit switched communications is relatively inactive (see col. 22, line 65-to-col. 23, line 24).

Regarding to claim 57. Dent teaches a communication system as claimed in claim 56, wherein the data channel for packet switched communications is allocated time slots (see col. 2, lines 8-27) during lulls in speech data being carried by means of the data channel for circuit switched communications (see col. 22, line 65-to-col. 23, line 24).

Regarding to claim 58. Dent teaches a communication system as claimed in claim 43, wherein the wireless channel (see col. 2, lines 8-27) comprises a circuit switched air-interface data being carried over said circuit switched air-interface (see Fig. 11, col. 2, lines 8-27) via circuit switched data and packet data (see Fig. 9, item "161 "means for packet data).

Regarding to claim 59. Dent teaches a communication system as claimed in claim 58, wherein said circuit switched air interface (see Fig. 11, col. 2, lines 8-27) is connectable to a packet switched core network (see Fig 9, item "161 "means for packet switched communication).

Regarding to claim 60. Dent teaches a communication system as claimed in claim 43, wherein the circuit switched channel is via a circuit switched core network of the communication system (see Fig. 11, col. 19, lines 58-66, PSTN means circuit switched communications).

Regarding to claim 61. Dent teaches a communication system as claimed in claim 43, wherein the packet switched channel is capable of operation via a packet switched core network of the communication system (see Fig. 9, item "161 "means for packet switched communication, col. 19, lines 58-66, and col. 21, lines 19-44).

Regarding to claim 62. Dent teaches a communication system as claimed in claim 43, wherein the circuit switched channel (see Fig. 11, col. 19, lines 58-66) is capable of operation via a packet switched core network and a circuit switched core network of the communication system (see Fig. 9, item "161 "means for packet switched communication col. 19, lines 58-66, and col. 21, lines 19-44).

Regarding to claim 64. Dent teaches a communication system as claimed in claim 63, wherein equal numbers of time slots in each frame are allocated to the data channel (see col. 2,*lines 8-27)* for circuit switched communications and the data channel for packet switched communications *(see col. 1, lines 53-61).*

Regarding to claim 65. Dent teaches a communication system as claimed in claim 63, wherein half the number of slots are allocated to the data channel (see col. 2, lines 8-27) for packet switched communications are allocated to the data channel for circuit switched communications (see col. 1, lines 53-61, col. 18, lines 44-60).

Regarding to claim 66. Dent teaches a communication system as claimed in claim 63, wherein a quarter of the number of slots are allocated to the data channel (see col. 2, lines 8-27) for packet switched communications are allocated to the data channel for circuit switched communications (see col. 6, lines 38-65, "when factor is 4, frame-length/slot is 32 means quarter rate 1/4" and col. 15, line 53-to-col. 16, line 7).

Regarding to claim 67. Dent teaches a communication system as claimed in claim 63, wherein the data channel for circuit switched communications is a half rate data channel (see col. 1, lines 53-61, col. 18, lines 44-60).

Regarding to claim 68. Dent teaches a communication system as claimed in claim 63, wherein the data channel for circuit switched communications is a quarter rate data channel (see col. 6, lines 38-65, "when factor is 4, frame-length/slot is 32 means quarter rate 'h" and col. 15, line 53-to-col. 16, line 7).

Regarding to claim 69. Dent teaches a communication system as claimed in claim 63, wherein the data channel for packet switched communications is a half rate data channel (see col. 1, lines 53-61, col. 18, lines 44-60).

Regarding to claim 70. Dent teaches a communication system as claimed in claim 63, wherein control data for control of the data channel for packet switched

communications is carried by the data channel for circuit switched communications (see col. 5, line 10-49).

Regarding to claim 71. Dent teaches a communication system as claimed in claim 63, wherein the control data is for control of transmission power and/or handover of the channel (see col. 17, lines 3-16).

Regarding to claim 72. Dent teaches a communication system as claimed in claim 70, wherein the control data comprises a fast access control channel and/or a slow access control channel (see col. 5, line 10-49).

Regarding to claim 73. Dent teaches a communication system as claimed in claim 63, wherein the data channel for circuit switched communications is a conversational channel (see col. 5, lines 10-49, col. 14, lines 18-29, and col. 18, line 18-34).

Regarding to claim 74. Dent teaches a communication system as claimed in claim 63, wherein the data channel for circuit switched communications is a background channel (see col. 8, line 40-to-col. 9, line 16, and col. 12, lines 26-54).

Regarding to claim 75. Dent teaches a communication system as claimed in claim 63, wherein the data channel for packet switched communications is allocated time slots during periods when the data channel for circuit switched communications is relatively inactive (see col. 22, line 65-to-col. 23, line 24).

Regarding to claim 76. Dent teaches a communication system as claimed in claim 75, wherein the data channel for packet switched communications is allocated time slots (see col. 2, lines 8-27) during lulls in speech data being carried by means of

the data channel for circuit switched communications (see col. 22, line 65-to-col. 23, line 24).

Regarding to claim 77. Dent teaches a communication system as claimed in claim 63, wherein the circuit switched channel is via a circuit switched core network of the communication system (see Fig. 11, col. 19, lines 58-66, PSTN means circuit switched communications).

Regarding to claim 79. Dent teaches a communication system as claimed in claim 78, wherein each full or half rate data channel for packet switched communications is a streaming, interactive or background channel (see col. 8, line 40-to-col. 9, line 16, and col. 12, lines 26-54).

Regarding to claim 80. Dent teaches a communication system as claimed in claim 78, wherein each full, half or quarter rate data channel for circuit switched communications is a conversational channel (see col. 5, lines 10-49, col. 14, lines 18-29, and col. 18, line 18-34).

Regarding to claim 81. Dent teaches a communication system as claimed in claim 78, wherein said system has a mode of operation in which said wireless channel comprises first and second sub-channels; said first sub-channel comprising a half rate data channel for circuit switched communication (see col. 9, line 17-to-col. 10, line 26; and said second sub-channel comprising a half rate data channel for packet switched communication (see col. 9, line 17-to-col. 10, line 26).

Regarding to claim 82. Dent teaches a communication system as claimed in claim 78, wherein said system has a mode of operation in which said wireless channel

comprises first, second, third and fourth sub-channels each comprising a quarter rate data channel for circuit switched communication (see col. 6, lines 38-65, "when factor is 4, frame-length/slot is 32 means quarter rate '/4" and col. 15, line 53-to-col. 16, line 7).

Regarding to claim 83. Dent teaches a communication system as claimed in claim 78, wherein said system has a mode of operation in which said wireless channel comprises first, second and third sub-channels (see col. 9, line 17-to-col. 10, line 26); said first sub-channel comprising a quarter rate data channel for circuit switched communication (see col. 9, line 17-to-col. 10, line 26); said second sub-channel comprising a quarter rate data channel for circuit switched communication (see col. 9, line 17-to-col. 10, line 26, and col. 6, lines 38-65, and col. 15, line 53-to-col. 16, line 7); and said third sub-channel comprising a half rate data channel for packet switched communication (see col. 1, lines 53-61, col. 18, lines 44-60).

Regarding to claim 84. Dent teaches a communication system according to claim 78, wherein said system has a mode of operation in which said wireless channel comprises first, second and third sub-channels; said first sub-channel comprising a quarter rate data channel for circuit switched communication (see col. 9, line 17-to-col. 10, line 26); said second sub-channel comprising a quarter rate data channel for circuit switched communication (see col. 9, line 17-to-col. 10, line 26, and col. 6, lines 38-65, and col. 15, line 53-to-col. 16, line 7); and said third sub-channel comprising a half rate data channel for packet switched communication (see col. 1, lines 53-61, col. 18, lines 44-60).

Response to Arguments

4. Applicant's arguments, pages 10-13 of the Remarks section, filed 10/18/2006, with respect to the rejections of the claims have been fully considered but are not persuasive.

Applicant argues (see page 10 second paragraph, page 11 first paragraph) that neither one of the applied reference suggests a half rate packet switched data channel, as claimed in all of the independent claims of this application; One of ordinary skill in the art would not transfer the teachings of Dent regarding full and half ram circuit switched channels to the packet switched channels disclosed in Tran and the applied references do not suggest any direct link between channel rote and overall spectral efficiency for packet switched connections, because more than one packet switched connection may be assigned to any particular data channel. Applicant further argues that knowing the difference between channel allocation for packet switched connections and for circuit switched connections, one of ordinary skill in the art has no reason to suppose that combining the teaching in Dent regarding half rate speech channels to channels for packet switched connections (as suggested in Tran) would result in an increased spectral efficiency; Therefore, the combination of Dent and Tran does not teach or suggest half rate data channels for packet switched communications, as claimed in claims 43 and 75.

However, Examiner respectfully disagrees with these assertions. As mentioned in the office action, Tran in the same field of endeavor teaches (column 1 lines 35-45) subscriber units may attempt to increase efficiency for a wireless system that is

primarily intended for circuit-switched traffic by using excess system capacity for packet-switched data services via similar subscriber unit equipment. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Dent's system/method by incorporating the concept of using excess system capacity in a TDMA system for packet-switched data services as taught by Tran. The motivation is that (as suggested by Tran, column 1 lines 35-45) Packet data provides more network robustness due to path independence and the routers' ability to select alternative paths in the event of network node failure. Packet switching, therefore, allows for more efficient use of the network lines. Packet technology offers the option of billing the end user based on amount of data transmitted instead of connection time. If the end user's application has been designed to make efficient use of the air link, then the number of packets transmitted will be minimal. If each individual user's traffic is held to a minimum, then the service provider has effectively increased network capacity. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art at the time the invention was made. See In re Keller 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Rigid prophylactic test is not needed to implement Section 103(a)'s nonobviousness requirement. Teaching-Suggestion-Motivation Test Should Not Be The Exclusive Means Of Establishing Obviousness. There may be differences between respondent's invention and the state

of the prior art. The gap between the prior art and respondent's system is simply not so great as to render the system non-obvious to one reasonably skilled in the art. Id. At 230. (No. 04-1350 In the Supreme Court of the United States KSR INTERNATIONAL CO., PETITIONER v. TELEFLEX INC., ET AL).

Applicant argues (see page 11 second paragraph) that Dent does not consider that the expected efficiency gains may not be fully realized because of a mismatch in the number of circuit switched connections requesting a half rate channel at any one time. Tran similarly does not recognize or address this problem. Applicant argues since Tran does not disclose part rate channels for packet switched communications, even if the skilled person were aware of this problem, Applicant argues Tran would not suggest all of the features recited in claims 43 and 75. Applicant further argues neither Dent nor Tran contains any suggestion that would prompt one of ordinary skill in the art to disregard the differences between circuit switched and packet switched connections (as described above) and implement a communication system having modes of operation in which a combination of full rate and part rate channels are allocated to circuit switched and packet switched communications as recited in the claims 43.

However, Examiner respectfully disagrees with these assertions. The claimed limitations do not reflect what the Applicant has argued above. The claims do not cite limitations related to the expected efficiency gains being not fully realized because of a mismatch in the number of circuit switched connections requesting a half rate channel at any one time. Further more, the present claim language is broad and in

view of the broadest reasonable interpretation of the claim language the cited references do teach the claimed limitations. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art at the time the invention was made. See In re Keller 642 F.2d 413, 208 USPQ 871 (CCPA 1981). Rigid prophylactic test is not needed to implement Section 103(a)'s nonobviousness requirement. Teaching-Suggestion-Motivation Test Should Not Be The Exclusive Means Of Establishing Obviousness. There may be differences between respondent's invention and the state of the prior art. The gap between the prior art and respondent's system is simply not so great as to render the system non-obvious to one reasonably skilled in the art. Id. At 230. (No. 04-1350 In the Supreme Court of the United States KSR INTERNATIONAL CO., PETITIONER v. TELEFLEX INC., ET AL).

Applicant argues (see page 12 last paragraph) that Independent claim 96 defines a communication system having a first mode of operation in which there is a full rate data channel for packet switched communications and a second mode of operation in which there are two half rate channels for packet switched communications. Dent is concerned only with circuit switched communications and Tran does not suggest a mode of operation in which there arc two half rate data channels for packet switched communications. Therefore,, one of ordinary skill in

the art would not find it obvious to transfer the teachings of part rate data channels for circuit switched communications to the packet switched communications disclosed in Tran. However, Examiner respectfully disagrees with the assertion for the reasons cited above.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Salman Ahmed whose telephone number is (571)272-8307. The examiner can normally be reached on 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hassan Kizou can be reached on (571) 272-3088. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Art Unit 2616

SA
07/12/2006

CHAU NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600